

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DANIEL GURISH,)	
)	CASE NO. 1:10cv2292
Plaintiff,)	
)	
v.)	
)	JUDGE BENITA Y. PEARSON
OHIO DEPARTMENT OF MENTAL)	
RETARDATION AND)	
DEVELOPMENTAL DISABILITIES, <i>et al.</i> ,)	
)	<u>MEMORANDUM OF OPINION AND</u>
Defendants.)	<u>ORDER</u> [Regarding ECF No. 90]

This action is before the Court upon Plaintiff Gurish's Motion for Extension of Time to File Appeal pursuant to [Federal Rules of Appellate Procedure 4\(a\)\(5\)](#). [ECF No. 90](#). Plaintiff wishes to appeal the Court's Memorandum of Opinion and Order filed on August 23, 2012 ([ECF No. 88](#)). Plaintiff filed this motion on September 24, 2012.

[Fed. R. App. Pro. 4\(a\)\(5\)\(A\)](#) states that a district court may extend the time to file a notice of appeal when (i) a party moves the court to do so no later than 30 days after the entry of judgment and (ii) regardless of timing, the party shows excusable neglect or good cause. Plaintiff filed this motion within thirty (30) days of the Court's August 23, 2012 Judgment Entry, as computed by [Fed. R. App. Pro. 26\(a\)\(1\)\(A\)](#), (B), and (C). Plaintiff has shown excusable neglect or good cause by informing the Court of his illness and resulting treatment. [ECF No. 90 at 1](#). Additionally, Plaintiff has informed the Court he has communicated with an attorney who may assist him in determining whether to appeal, and that attorney will be out of the country and therefore unavailable to assist Plaintiff until October 10, 2012 which is beyond the time for filing

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a notice of appeal without an extension. [ECF No. 90 at 2](#).

For the reasons stated above, the Court grants Plaintiff's Motion for Extension of Time to File Appeal ([ECF No. 90](#)) of the Court's August 23, 2012 Memorandum of Opinion and Order ([ECF No. 88](#)). If Plaintiff wishes to file an appeal, such appeal must be filed by October 23, 2012 as requested by Plaintiff and within the 30 days authorized by [Fed. R. App. Pro. 4\(a\)\(5\)\(C\)](#).

Plaintiff has not timely filed a motion for an extension of time to appeal the Court's July 18, 2012 Memorandum of Opinion and Order ([ECF No. 85](#)). Plaintiff is, hereby, advised that he is only receiving an extension of time to file an appeal of the Court's August 23, 2012 ruling ([ECF No. 88](#)).

IT IS SO ORDERED.

October 1, 2012
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge